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STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION
December 2, 2015

2015 Submission

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission 445 12th Street, SW
Washington, DC 20554

USAC
Vice President, High Cost and Low Income Division 2000 L Street, NW, Suite 200
Washington, DC 20036

Re: CC Docket No. 96-45/WC Docket No. 14-58, State Certification of Support for
Eligible Telecommunications Carrier Pursuant to 47 C.F.R. § 54.314

Pursuant to the requirements of 47 C.F.R. § 54.314, the Minnesota Public Utilities Commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that Lake County Minnesota is eligible to receive federal high-cost support as part of the FCC's Rural Broadband Experiments program for the program year.

The Minnesota Public Utilities Commission certifies that federal high cost support will be used in the coming calendar year **(2016)** only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Attached is the MPUC's Order dated December 2, 2015 granting Lake County's petition for ETC designation.

Sincerely,


Lillian Brion

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
Nancy Lange
Dan Lipschultz
John A. Tuma
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Petition of Lake County
Minnesota d/b/a Lake Connections for ETC
Designation in Minnesota

ISSUE DATE: December 2, 2015

DOCKET NO. P-6944/M-15-65

ORDER GRANTING PETITION FOR
ETC DESIGNATION

PROCEDURAL HISTORY

On July 27, 2015, the Commission issued an order in this case approving Lake County's petition for designation as an Eligible Telecommunications Carrier (ETC) under the Federal Telecommunications Act of 1996,¹ subject to conditions and approval of a compliance filing demonstrating that those conditions had been met.² The petition sought the ETC designation for the purpose of qualifying for a \$3,500,000 grant the County had been provisionally awarded under the Federal Communications Commission's (FCC) Connect America program, part of that agency's Rural Broadband Experiments.³

Lake County's ETC application was unusual in that the applicant intended to offer and provide the required telecommunications services through a contract with another licensed provider, using fiber-optic facilities it was constructing with loan and grant funds awarded under the American Recovery and Reinvestment Act. While the County would own the backbone broadband network over which services would be provided, it planned to delegate responsibility for day-to-day operations to its vendor, the licensed telecommunications carrier Lake Communications. The July 27 order therefore required that the compliance filing include detailed information on the contract between Lake County and Lake Communications.

On August 27, 2015, Lake County made the required compliance filing.

¹ 47 U.S.C. §§ 214 (e) (1); 254 (e).

² *Order Granting Petition Subject to Conditions, and Requiring Compliance Filing* (July 27, 2015), this docket.

³ In July 2014 the FCC issued its *Rural Broadband Experiments Order*, establishing a grant competition for targeted broadband-expansion projects; this competition was designed to help the agency and stakeholders learn more about the impact of technology transitions on rural America. *In the Matter of the Connect America Fund*, WC Docket 10-90, and 14-58, FCC-14-98, Report and Order and Notice of Proposed Rulemaking, 29 FCC Rcd 8769, July 14, 2014 (*Rural Broadband Experiments Order*).

On September 18, 2015, the Minnesota Department of Commerce (the Department) filed comments. The Department stated that the compliance filing demonstrated that Lake County had met all conditions of the July 27 order with the exception of clearly and accurately listing its rate for stand-alone voice service on its website and in its tariffs. The agency stated that the \$29.00 price featured on Lake County's website and linked to its tariffs was the price for a bundled service, not stand-alone voice service.

On the same date, Citizens Telecommunications Company of Minnesota, LLC (Citizens) filed comments, concurring with the Department on the price disclosure issue and claiming that the filing was also deficient in the following ways:

- 1) Despite contract language stating that Lake County is the entity legally and financially responsible for providing mandated services, liaising with government entities, receiving and disbursing funds, and maintaining financial records, the contract also makes Lake Communications responsible for these things, violating order requirements imposing these responsibilities on Lake County.
- 2) By requiring Lake County and Lake Communications to work together to resolve customer complaints and service-quality issues, the contract obscures Lake County's duty to take responsibility for customer service and service quality.

On November 19, 2015, the compliance filing came before the Commission. At that time, the parties agreed that Lake County had corrected its tariffs and website to clearly and accurately state its rate for stand-alone voice service.

FINDINGS AND CONCLUSIONS

The Commission concurs with the parties that Lake County's tariffs and website now clearly and accurately state the price for stand-alone voice service, as required under the July 27 order. The Commission also finds that Lake County has complied with all other requirements of that order and qualifies for final designation as an Eligible Telecommunications Carrier under the order's terms.

The Commission does not agree with Citizens that the contract between Lake County and Lake Communications muddles the responsibilities of the two parties or purports to relieve Lake County of any responsibility it holds as an ETC. While the contract provides that Lake Communications will perform the day-to-day tasks required to provide mandated services and meet Lake County's other ETC obligations, it also provides that Lake County remains the entity legally and financially responsible for performing these tasks and providing these services. That is precisely the arrangement approved in the July 27 order:

The issue, then, is whether the County may contract with Lake Communications to administer the provision of its telecommunication services, or whether it must itself deliver the services unaided.

The Commission does not read the statute as prohibiting the contractual arrangement described in County filings to date. The explicit "own facilities" statutory requirement is a high bar, which the County meets. There is no similar statutory language requiring ETCs who have met that bar to also exercise direct

operational control over the delivery of supported services. It is therefore reasonable for the County to contract with an experienced telecommunications carrier to handle daily telephony operations, while the County remains ultimately responsible—legally and financially—for providing supported services.⁴

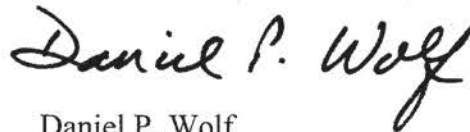
The contract governs the rights and responsibilities of the two contracting parties vis-à-vis each other, not the rights and responsibilities of Lake County as an ETC under state and federal law. Lake County remains legally and financially responsible to provide all mandated services and to comply with all other statutory and regulatory requirements applicable to ETCs, whether or not it has entered into a contract delegating the operational components of those responsibilities to Lake Communications. The contract recognizes this by requiring Lake Communications to comply with all ETC requirements, while stating that ultimate responsibility for meeting these requirements rests with Lake County.

The Commission will therefore approve the compliance filing and grant Lake County's petition for ETC designation in Minnesota for the purpose of qualifying for receipt of federal Connect America Funds as part of the FCC's Rural Broadband Experiments.

ORDER

1. The Commission hereby grants Lake County's petition for ETC designation in Minnesota for the purpose of qualifying for receipt of federal Connect America Funds as part of the FCC's Rural Broadband Experiments.
2. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Daniel P. Wolf
Executive Secretary



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⁴ *Id.* at 5-6.